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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग-अलग
को रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 4th
December, 1986:—

I

BILL NO. XXXIII OF 1986

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Thirty-seventh Year of the
Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1986. Short
title.
2. In article 19 of the Constitution, for sub-clause (a) of clause
(1), the following sub-clause shall be substituted, namely:— Amend-
ment of
article
19.

“(a) to freedom of speech and expression and freedom of the
Press;”.

(1)

STATEMENT OF OBJECTS AND REASONS

Article 19(1) (a) of the Constitution guarantees the right to freedom of speech and expression but not explicitly the freedom of the Press.

Freedom of the Press, is one of the pillars on which democracy rests. It is generally held that the freedom of the Press is guaranteed in view of the fact that the freedom of expression is guaranteed in the Constitution.

Despite this widely held belief, the latest developments in several States have proved otherwise. The trend towards muzzling and gagging of the Press is growing. The intention is to force the Press to fall in line with the Government's thinking and policies. This amounts to an attack on the freedom of the Press.

This Bill seeks to eliminate the danger of such attacks on the freedom of the Press by incorporating an explicit provision relating to the freedom of the Press in article 19(1) (a) of the Constitution.

CHITTA BASU

II

BILL NO. XXXVI OF 1986

A Bill to amend the Bombay Prevention of Begging Act, 1959, as extended to the Union territory of Delhi.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Bombay Prevention of Begging (Delhi Amendment) Act, 1986.

Short
title.

Bombay
Act
10 of 1960.

2. In section 2 of the Bombay Prevention of Begging Act, 1959, as extended to the Union territory of Delhi (hereinafter referred to as the principal Act), in sub-section (1), in clause (i),—

Amend-
ment of
Section 2.

(i) in sub-clause (a), the words “whether or not under any pretence such as singing, dancing, fortune telling, performing, or offering any article for sale” shall be omitted;

(ii) sub-clause (d) shall be omitted.

Insertion
of new
section 3A.
Appoint-
ment of
adequate
number of
Magistrates.

3. After section 3 of the principal Act, the following section shall be inserted, namely:—

“3A. (1) There shall be appointed adequate number of Magistrates of the First Class for the purpose of exercising powers, and trying cases, under this Act.

(2) The Court of a Magistrate appointed under sub-section (1) shall conduct day to day inquiry against a person who is brought before it under this Act and if in any case it is not possible to hold the inquiry from day to day, the reasons therefore shall be recorded by the Court, in writing.

Amend-
ment of
section 5.

4. In section 5 of the principal Act,—

(i) to sub-section (2), the following provisos shall be added, namely:—

“Provided that the Court shall record the reasons for adjournment of inquiry every time:

Provided further that no persons shall be remanded to custody for a period of more than five days.”

(ii) after sub-section (3), the following sub-sections shall be inserted, namely:—

“(3A) Where the person pleads that he was not begging and proves to the court that he has means of subsistence, the Court shall order that such person be released forthwith.”;

(iii) to sub-section (4), the following provisos shall be added, namely:—

“Provided that where the inquiry is held by the Court of a Magistrate of the First Class, and the person is aggrieved against the finding of the Magistrate, he shall have the right to make an application, without payment of any court fee, to such Magistrate to forward his case to a Court of Session and on receipt of such an application the Magistrate shall forward the case with such application to the Court of Session for its decision thereon:

Provided further that where such an application is forwarded to a Court of Session, such Court shall complete the inquiry within a period of seven days from the date on which the application was forwarded by the Court of the Magistrate:

Provided also that the Court of Session shall not order the person to be remanded to a custody for a period of more than five days.”;

(iv) in sub-section (5) for the words “not less than one year, but not more than three years”, the words “not more than one year” shall be substituted.

Omission
of sec-
tion 6.

5. Section 6 of the principal Act shall be omitted.

6. After section 7 of the principal Act, the following sections shall be inserted, namely:—

Insertion of
new sections
7A and 7B.

“7A. Where a person, who is tried for an offence under this Act, pleads that he was not guilty of the offence and wants to contest the case, the Court shall provide him with adequate legal assistance free of any charge.

Legal assist-
ance to
persons
found
begging.

7B. The evidence tendered by a police officer alone against a person accused of begging under this Act shall not be treated as a conclusive evidence against such persons and the Court shall not record a finding that the person is a beggar unless a person, who is a resident of or carries his profession or has place of his employment at or near the place where the person accused of begging has been found, appears before the Court as a witness against such person and testifies to the satisfaction of the Court to the effect that the person accused of begging was actually begging.”

Evidence of
police
officer
alone
not to be
treated as
conclusive
evidence
against a
person
found
begging.

7. In section 15 of the principal Act,—

(i) to sub-section (1), the following further proviso shall be added, namely:—

Amend-
ment
of section
15.

“Provided further that five of the members of the Advisory Committee shall be appointed from amongst the persons who represent various social or charitable organisations engaged in the service of the poor, the destitute or the homeless”;

(ii) in sub-section, (2), the words “and after due notice to the Superintendent and ” shall be omitted.

8 Section 20 of the principal Act shall be omitted.

Omission
of section
20

STATEMENT OF OBJECTS AND REASONS

The Bombay Prevention of Begging Act, 1959, as adopted and extended to the Union territory of Delhi, provides for prevention of begging, detention, training and employment of beggars, their custody, trial and punishment. It has been observed that instead of achieving these objectives, the enforcement of the provisions of the Act has proved to be a danger to the personal liberty of innocent and poor people. Though many of the persons accused of begging might be beggars, a surprisingly large number of them are those who are not beggars or were never caught actually begging. In fact, the definition of "begging", as given in the Act, is so sweeping that it has resulted in extreme harshness to the poor people.

"Begging", as defined in the Act, means soliciting or receiving alms in a public place, whether or not under any pretence, such as singing, dancing, fortune-telling, performing or offering any article for sale. The result is that the poor persons who earn their livelihood by performing these arts have been branded as beggars and are arrested by the police without warrant and sent to a Certified Institution. This definition ignores the fact that these "performers" have some background of training in singing, dancing or other performances. In fact, the money which the audience gives them is not alms but a return for the entertainment provided by the performers.

The harshness of the definition of "begging" is worsened by sub-clause (d) of clause (i) of section 2 under which any person not having an ostensible means of subsistence and wandering about in any public place can be deemed to live soliciting or receiving alms. In a country where a large number of people lives below poverty line and at least twelve million people are recognised as unemployed, the number of persons who have no visible means of subsistence would be legion.

A more disturbing feature of the enforcement mechanism of this Act is that in almost all the cases of alleged begging, it is the policeman alone, who arrests the persons accused of begging and testifies that the accused had solicited or received alms.

Another astonishing feature of the Act is the prescription of minimum or specific sentences under sections 5 and 6. Under section 6(3), when a person is convicted for begging for the second or subsequent times, the Court shall order him to be detained for a period of ten years. If theft is punishable with simple imprisonment for three years or less and so is rioting armed with a deadly weapon, there is something wrong with our system which demands that simple begging, asking a rich passerby for five paise be punished with detention for ten years and this is a land where poverty is so harsh and so widespread.

A clause of harassment under this Act is the unconscionable long period between the arrest and the final disposal of the case of a person accused of begging and there is no excuse for it. The fact that the Court does not sit oftener than once a week adds to the sufferings of a large number of the accused persons.

It is time that the provisions of this Act which ignore the stark reality of abysmal poverty prevailing in our country should be reviewed. It is necessary not only to remove these inhumane features of the Act but also to provide for free legal assistance to those who accused of begging.

Hence, this Bill,

CHITTA BASU.

III

BILL No. XLII OF 1986

A Bill to provide for the taking over of management of the undertakings of the Banking Companies specified in the Schedule for a limited period with a view to securing their proper management so as to subserve the public interest and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short
title.

1. This Act may be called the Banking Companies (Taking Over of Management) Act, 1986.

Defini-
tions.

2. In this Act, unless the context otherwise requires,—

(a) “Banking Companies” means the Companies specified in the Schedule;

(b) "notified order" means an order notified in the Official Gazette;

(c) "prescribed" means prescribed by rules made under this Act;

(d) "Schedule" means the Schedule to this Act;

(e) "Undertakings" means the property and assets of the Banking Companies specified in the Schedule;

(f) Words and expressions used but not defined in this Act and defined in the Banking Regulation Act, 1949 and the Companies Act, 1956, shall have the meanings, respectively assigned to them in those Acts.

10 of 1949.
1 of 1956.

CHAPTER II

THE TAKING OVER OF THE MANAGEMENT OF THE BANKING COMPANIES

3. (1) The Central Government may, by notified order, appoint such number of Boards of control, as it may think fit, to take over the management of the undertakings of Banking Companies specified in the Schedule.

Appoint-
ment of
Boards of
Control
to take
over
manage-
ment of
the Bank-
ing Com-
panies.

(2) Every Board of Control shall consist of a Chairman and such number of other members not exceeding ten, as the Central Government may think fit.

(3) The term of office of, the procedure to be followed by, and the manner of filling vacancies among, the Chairman and the members of the Boards of Control, shall be such as may be prescribed.

(4) The Salary, allowances and other conditions of service of the Chairman and the members of the Boards of Control shall be such as may be determined by the Central Government.

(5) Every notified order issued under sub-section (1) shall remain in force for such period not exceeding five years as may be specified in the order:

Provided that if the Central Government is of opinion that in order to secure the proper management of the Banking Companies, it is expedient that any such notified order should continue in force after the expiry of the period of five years as aforesaid, it may, from time to time, issue notifications for its continuance for such periods, not exceeding two years at a time, as may be specified in the notification, but no such notified order shall in any case remain in force for more than a total period of fifteen years and where such notification is issued, a copy thereof shall be laid, as soon as may be, before each House of Parliament.

4. (1) On the issue of a notified order under section 3,—

(a) all persons in-charge of management including persons holding offices as Directors or Managers or any other managerial personnel of the Company, immediately before the issue of the notified order, shall be deemed to have vacated their offices as such;

Effect of
notified
order.

(b) any contract of management between the Banking Companies and any Managing Agent or any Director or any other managerial personnel thereof holding such office immediately before the issue of the notified order, shall be deemed to have been terminated;

(c) as from the date of the notified order, all the properties, assets and effects of the Banking Companies shall be deemed to be in the custody of the Boards of Control who shall, as soon as may be after such date, take all such steps as may be necessary to take into possession or control all such properties, assets and effects and all actionable claims to which the Banking Companies are, or appear to be, entitled.

(2) Subject to the provisions of this Act, the Boards of Control shall take such steps as may be necessary for the purpose of efficiently managing the business of the Banking Companies and shall exercise such other powers and have such other duties as may be prescribed.

CHAPTER III

MISCELLANEOUS

Duty to deliver possession of property and documents relating thereto.

5. (1) Where a notified order has been made under sub-section (1) of section 3 in relation to the Banking Companies, every person having possession, custody or control of any property of the Banking Companies shall deliver the property to the respective Board of Control or to such person or persons as may be authorised by the Board in this behalf.

(2) The Central Government may take all necessary steps for securing possession of all the assets and properties of the Banking Companies.

Duty to furnish particulars.

6. Every Banking Company shall, within ten days from the date of commencement of this Act or within such further period as the Central Government may allow in this behalf, furnish to the respective Board of Control a complete inventory of all their properties and assets as existing at the time of commencement of this Act.

Protection of action taken in good faith.

7. No suit, prosecution or other legal proceedings shall lie against the Central Government or the Boards of Control for anything which is in good faith done, or intended to be done, under this Act.

Act to have overriding effect.

8 The provisions of this Act or any order or rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any law other than this Act or in any instrument having effect by virtue of any other law.

Payment of remuneration and expenses out of funds of Banking Companies.

9. All salaries, allowances and other remuneration paid to the Chairman and other members of the Boards of Control and all other expenses duly incurred in connection with such management, shall be paid out of the funds of the Banking Companies.

Power of Central Government to give directions.

10. Notwithstanding anything contained in the foregoing provisions of this Act, the Central Government may give such directions to the Boards of Control, as it may think fit, for proper management of the Banking Companies and the Boards of Control shall comply with such directions.

11. The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act and shall cause them to be laid, as soon as may be, before each House of Parliament.

Power to
make
rules.

12. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty.

Power to
remove
difficul-
ties.

SCHEDULE

[See section 3(1)]

1. Jammu and Kashmir Bank, Srinagar
2. Bank of Rajasthan, Udaipur
3. Federal Bank, Alwaye
4. Vysya Bank, Bangalore
5. South Indian Bank, Trichur
6. Karnataka Bank, Mangalore
7. United Western Bank, Satara City
8. Catholic Syrian Bank, Trichur
9. United Industrial Bank, Calcutta
10. Sangli Bank, Sangli
11. Tamilnadu Mercantile Bank, Tuticorin
12. Karur Vysya Bank, Karur
13. Benaras State Bank, Varanasi
14. Barath Overseas Bank
15. VILAS
16. Bank of Cochin, Ernakulam
17. Bareilly Corporation (Bank), Bareilly
18. Nedungadi Bank, Kozhikode
19. Tanjore Permanent Bank, Tanjore
20. DNACL
21. Naini Tal Bank, Naini Tal
22. Kumbakonam City Union Bank, Kumbakonam
23. Traders' Bank, New Delhi
24. Parur Central Bank, Parur
25. KRISHN
26. Ratnakar Bank, Kolhapur
27. PRUBK
28. KASRI
29. Miraj State Bank, Miraj

STATEMENT OF OBJECTS AND REASONS

Since there has been complaints of mismanagement and corruption against the authorities of Private Banks and there has been cases of violation of the directives of the Reserve Bank by these Private Banks and instances of Banking Laws being violated, there is growing feeling that the interests of the depositors will not be safe if these banks are run by private bankers.

Hence this Bill.

GURUDAS DAS GUPTA.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill authorises the Central Government to make rules for carrying out the purposes of the Bill. These are matters of detail and as such the delegation of legislative power is of a normal character.

SUDARSHAN AGARWAL,
Secretary-General.

